

Calendar No. 985

91ST CONGRESS }
2d Session }

SENATE

{ REPORT
No. 91-981

IRENE SADOWSKA SULLIVAN

JUNE 26, 1970.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany S. 1785]

The Committee on the Judiciary, to which was referred the bill (S. 1785) for the relief of Irene Sadowska Sullivan, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

AMENDMENT

On page 2, lines 15 and 16, strike out "out of any money in the Treasury not otherwise appropriated," and insert in lieu thereof, "out of any money now or hereafter deposited in the War Claims Fund,".

PURPOSE OF AMENDMENT

The purpose of the amendment is to cause any funds arising under the bill to be paid properly from the War Claims Fund rather than from the general Treasury.

PURPOSE OF BILL AS AMENDED

The purpose of the bill, as amended, is that notwithstanding any provisions of title II of the War Claims Act of 1948, as amended (50 U.S.C., App. 2017-2017p), limiting the period within which claims may be filed thereunder, including section 211 of such act (50 U.S.C.,

App. 2017j), the Foreign Claims Settlement Commission of the United States is authorized and directed (1) to receive, consider, and act upon any claims of Irene Sadowska Sullivan of Scottsdale, Ariz., filed within 6 months after the date of enactment of this act, relating to the loss of a tenement building owned by her father, a U.S. citizen, in Warsaw, Poland, as if such claims had been filed within the time and in the manner provided in such act, the said Irene Sadowska Sullivan having filed a valid claim relating to such building prior to the date of expiration of the general war claims program, but not having been able to complete her documentation of such claim until after such date; and (2) to certify to the Secretary of the Treasury its determination as to the amount of any award to which the said Irene Sadowska Sullivan would have been entitled on the basis of such claims if they had been filed within the time and in the manner provided in such act.

The facts of the case as found in the report from the Foreign Claims Settlement Commission are as follows:

Title II of the War Claims Act of 1948, as amended, among other things, directed the Foreign Claims Settlement Commission to determine the validity and amount of claims of nationals of the United States for the loss or destruction of, or physical damage to, real property and tangible personal property, located in Poland as well as certain other central European countries, which loss, destruction, or physical damage occurred during the period beginning September 1, 1939, and ending May 8, 1945, as a direct consequence of military operations of war or special measures directed against property because of the enemy or alleged enemy character of the owner, which property was owned by a national of the United States at the time of such loss, damage or destruction. The program was completed on May 17, 1967 in accordance with the statute.

The Commission's records disclose that a claim (No. W-997) was filed by Irene Sadowska Sullivan under title II of the War Claims Act of 1948, as amended (Public Law 87-846), based upon losses of certain household furnishings, clothing, an automobile and an inventory of a fishing equipment business located in Warsaw, Poland, which losses occurred during World War II as a direct consequence of military operations of war.

By a proposed decision dated April 20, 1966, claimant Irene Sadowska Sullivan was granted an award in the amount of \$8,556 for the loss of the subject property. Inasmuch as no objections were filed to the award, the decision was entered as the Commission's final decision on May 19, 1966. The award was subsequently certified to the Secretary of Treasury for payment out of the War Claims Fund and the award was paid in the full amount.

In December 1966, Mrs. Sullivan communicated with the Commission for advice regarding procedures applicable to reopening claims for further consideration for property not previously claimed. She was advised that Commission regulations provided for the reopening of claims for further

consideration based upon additional losses. This could be accomplished by filing a petition and appropriate evidence establishing ownership, loss, or destruction, and the value of such property.

A petition to reopen was subsequently filed with the Commission on March 3, 1967, seeking additional compensation for the damage or destruction of a tenement house in Warsaw which had been purchased by claimant's late father. The only evidence submitted with the petition was an affidavit executed by two persons then residing in Poland. After an examination of the affidavit, it was found not to have been of sufficient probative value to warrant the granting of compensation under the statute. Mrs. Sullivan was advised by letter dated May 15, 1967, that her petition to reopen had been denied for the foregoing reason.

The war claims program under title II of the War Claims Act of 1948, as amended, was completed on May 17, 1967, and the Commission's jurisdiction with respect to such claims terminated on that date. In regard to such date, section 211 of the statute reads as follows:

"The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than four years following the enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title."

Legislation granting appropriations for the program was enacted on May 17, 1963. Accordingly, the Commission was required to complete all of its determinations on these claims within a 4-year period from that date.

Subsequent to May 17, 1967, the completion date, Mrs. Sullivan submitted a certificate from official sources in Warsaw which established ownership in the tenement house which was the subject of the petition to reopen her claim. This certificate, however, was not received by the Commission until May 22, 1967, which was, of course, subsequent to the date upon which the statutory authority for the determination of these claims terminated. In case this evidence had been received prior to the completion date, undoubtedly the evidence would have been considered for the purpose of reopening Mrs. Sullivan's claim and possibly granting her an additional amount for the loss or damage to the building.

When certain limitations are fixed for the filing of claims or evidence or the performance of any act, there are inevitably cases in which acts either are not, or cannot, be performed within the time limits prescribed. As an example, under the program administered by the Commission pursuant to the Polish Claims Agreement of 1960 which provided for a settlement of claims arising out of the nationalization or other taking of American-owned property by the Government of Poland, approximately 3,000 claims were denied wholly or in part for failure of claimants to meet the burden of proof in support of such claim prior to the termination of the program

on March 31, 1966. In many cases the claimants had as long as five years to obtain and submit evidence but were unable to do so prior to the completion of the program.

These denials were subject of public testimony before the Committee on Foreign Relations in connection with the consideration of legislation in the 89th Congress to extend the Polish claims program for the reason that additional time was required by certain claimants to acquire evidence from the Polish authorities.

Because of the extensive property damage in Poland during World War II, the obliteration of 60 percent of the land records and the removal of many former residents from given areas, the Commission was advised that it was impossible for Polish authorities to furnish some of the evidence or information sought by the claimants. The legislation was not enacted and the claims which had been denied for insufficient evidence remained closed.

Upon completion of the war damage claims program under title II of the War Claims Act of 1948, 7,039 awards had been approved out of a total of 22,605 claims filed. It is estimated that between 3 and 4,000 of these war damage claims were denied in whole or in part because of claimant's failure to furnish evidence in support of their claims prior to the completion of the program on May 17, 1967, including the claim filed by Mrs. Sullivan.

In these claims as well as claims under other programs, the Commission has not been in a position to change its decisions and take favorable action upon receipt of evidence despite the fact that such evidence may have been submitted only a few days after the completion of these programs.

Upon completion of the war damage claims program under title II of the War Claims Act, the Commission had certified awards in the aggregate amount of \$340.4 million to the Secretary of the Treasury for payment out of the War Claims Fund which consists of the net proceeds of enemy property vested in the United States under the Trading With the Enemy Act. Only \$223.7 million, however, was deposited into the Fund for the payment of the approved awards. Awards based on certain maritime losses and losses by small business concerns were paid in full in accordance with the priority payment procedures as prescribed under the act as well as those awards approved in an amount of \$10,000 or less. All awards approved in excess of \$10,000 were paid to the extent of \$10,000 plus a prorated payment of 61.3 percent of the balance in excess of \$10,000, in accordance with these payment procedures. Consequently, the payment of these awards has presently exhausted the money in the War Claims Fund. It is anticipated, however, that additional money may be made available for transfer into the War Claims Fund possibly within the near future.

The objections of the Foreign Claims Settlement Commission are, in the opinion of the committee, successfully answered by a brief submitted by the sponsor which reads as follows:

Relative to private bill S. 1785, which I have introduced for myself and Senator Fannin, I would like to respond to the report filed by the Foreign Claims Settlement Commission by letter of September 22. I strongly disagree with the opinion of the Commission relative to the merits of the case and I concur with the Commission relative to the proper source of funds for payment under the bill.

On April 10, I presented a detailed brief to the committee, including an extensive appendix of documentary proof. The brief establishes that on March 3, 1967, Mrs. Irene Sullivan submitted a formal petition, by registered letter, to the Commission to reopen her claim before the Commission so as to include an award for the destruction of a building in Warsaw which had been owned by her late father. (See exhibit 3A.)

Mrs. Sullivan enclosed with her petition an affidavit made by Mr. and Mrs. Konopka of Warsaw, who had been the family attorneys for approximately 25 years. Their affidavit was sworn to before the U.S. Vice Consul at Warsaw and set forth a specific description of the property, including its address, its ownership, its value, the cause of its destruction, and the page number of the official land mortgage book in which the property was recorded. (See exhibit 3B.)

The brief further establishes that these same two persons had furnished an affidavit which had been accepted by the Commission as proof of Mrs. Sullivan's original claim. Thus, the Commission had already determined that these individuals are competent, reliable witnesses. (See exhibit 1.)

In contrast to the actual facts of the case, the Commission has reported that "The only evidence submitted with the petition was an affidavit executed by two persons then residing in Poland." This bare statement is misleading because it completely conceals the facts that these are the same two persons on whom the Commission had once before relied in granting the original award to Mrs. Sullivan. Also, the Commission's report fails to disclose that the affidavit gave a full, detailed description of the property, including a citation of the page number on which the property was listed in the official land records of the city of Warsaw.

It is my belief that in these circumstances, the evidence supplied by Mr. and Mrs. Konopka should have constituted sufficient probative value to support an award to Mrs. Sullivan. At the very least, I believe it then became mandatory for the Commission, should it have had any doubts as to the facts, to inquire whether Mrs. Sullivan possessed any additional evidence.

On April 7, 1967, the Commission did respond to Mrs. Sullivan's petition by asking her to complete and return an affidavit of inheritance. The Commission did not use this occasion to ask for any other supporting evidence of any kind. (See exhibit 4.)

Mrs. Sullivan returned the completed affidavit on April 12, 1967, by registered letter No. 3063, and attached to the affidavit

a request that the Commission advise her if any further information or documents would be required. The Commission never did acknowledge her inquiry.

The Commission has failed to inform the committee that Mrs. Sullivan was asked to complete an affidavit of inheritance or that she sought to be advised if any further evidence would be required. To me, these are significant facts because they prove, first, that the Commission never requested any additional evidence other than the affidavit of inheritance and second, that the Commission had been put on notice by Mrs. Sullivan that she stood ready to give any further verification that might be needed.

The equities in Mrs. Sullivan's case are further buttressed by the fact that at the first occasion when she was informed of the need for new evidence, she sent it almost immediately.

The first time the Commission informed Mrs. Sullivan that her petition did not warrant a new award was on May 15, 1967, 2 days before its authority to consider war claims expired. On May 22, 1967, exactly 1 week later, Mrs. Sullivan furnished new evidence in the form of an official certificate of the Governmental Notary Bureau in Warsaw attesting to the ownership of the property, the destruction thereof as a result of military operations during World War II, and its value. The document verified each fact sworn to by Mr. and Mrs. Konopke, even down to the same page number in the mortgage record books as cited by them. (See exhibits 5, 6A, and 6B.)

Consequently, the facts demonstrate that had the commission given Mrs. Sullivan an opportunity to know of and respond to its questions she could have furnished the appropriate evidence promptly.

Finally, there is no question but that the claim as verified by Mrs. Sullivan was sufficient to justify an award. In reply to my letter of inquiry dated February 19th, Mr. Leonard v. B. Sutton, Chairman of the FCSC, says at page 2:

"Your inquiry of February 19, 1967, poses two questions. First, if the submission by Mrs. Sullivan had been timely, would she have presented the type of claim for which an award would have been made under Public Law 87-846? The answer to this question is in the affirmative."

In summary, I must disagree strongly with the opinion given by the Commission that "there does not appear to be any special extenuating circumstances for singling out Irene Sadowska Sullivan for special relief or that she is more deserving than others to receive such relief."

By the very admission of the Chairman of the Commission, Mrs. Sullivan's claim stated grounds "for which an award would have been made * * *" had the Commission deemed it timely. Certainly this unusual statement alone distinguishes the case from all others and establishes equity in her behalf.

If Mrs. Sullivan's original claim was accepted on the basis of evidence given by the family attorneys, why was evidence

from the same people not accepted in the case of her amended claim?

If the Commission had any doubts at all relative to the truth of her claim, why did it not respond to her offer of April 12, 1967, to supply any further information that was necessary?

The fact that they failed to give Mrs. Sullivan any opportunity to meet their reservations about her claim, in the face of her specific request to be allowed to do just that, creates a strong equity in her behalf. This is particularly so in view of her proven ability to supply additional evidence quite promptly.

Thus, several features of the case distinguish it from other instances in which persons failed to submit timely evidence to the Commission. How many other cases exist in which an award "would have been made * * *"? How many other cases are there where the pending claim was supported by detailed evidence offered by the same witnesses whose statement had previously served as the basis for the making of an award?

How many other claimants had formally requested an opportunity to provide additional evidence if this would be required? How many other cases are there in which the claimant did in fact transmit to the Commission additional convincing evidence within less than 1 week from the time the Commission's authority expired?

Obviously, there are no other such cases. For the Commission to assert that the enactment of a private bill in the case will open the door to the passage of 3,000 or 4,000 other such bills is ridiculous. The special circumstances of the case are highly unlikely to be present in any other situation, and I am confident that the bill would not create a precedent for other claimants.

Turning to the second comment presented by the Commission, I wish to state my agreement with the position of the Commission that it is unwise to use unappropriated funds in the Treasury for the payment of war damage claims. In order to correct this aspect of the bill, I suggest that the committee accept an amendment to the bill as follows:

On page 2, lines 15 and 16, strike out " , out of any money in the Treasury not otherwise appropriated," and substitute " , out of any money now or hereafter deposited in the War Claims Fund,"

On the basis of these reasons, I respectfully ask that the committee approve the bill with an amendment.

It is the opinion of the committee that this is a proper case to waive the bar, and, accordingly, it is recommended that the bill as amended be favorably enacted.

Attached hereto and made a part hereof are the substantiating papers.

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES,
Washington, D.C., September 22, 1969.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Further reference is made to your letter of May 1, 1969, requesting a report by the Foreign Claims Settlement Commission on the bill, S. 1785, 91st Congress, for the relief of Irene Sadowska Sullivan.

The bill waives certain time limitations under title II of the War Claims Act of 1948, as amended, and directs the Foreign Claims Settlement Commission to act upon any claim by Irene Sadowska Sullivan of Scottsdale, Ariz., relating to the loss of a tenement building in Warsaw, Poland, and to certify the amount of any award to the Secretary of Treasury for payment in accordance with the statute. Such payment would be made out of any money in the Treasury not otherwise appropriated.

Title II of the War Claims Act of 1948, as amended, among other things, directed the Foreign Claims Settlement Commission to determine the validity and amount of claims of nationals of the United States for the loss or destruction of, or physical damage to, real property and tangible personal property, located in Poland as well as certain other central European countries, which loss, destruction, or physical damage occurred during the period beginning September 1, 1939, and ending May 8, 1945, as a direct consequence of military operations of war or special measures directed against property because of the enemy or alleged enemy character of the owner, which property was owned by a national of the United States at the time of such loss, damage or destruction. The program was completed on May 17, 1967, in accordance with the statute.

The Commission's records disclose that a claim (No. W-997) was filed by Irene Sadowska Sullivan under title II of the War Claims Act of 1948, as amended (Public Law 87-846), based upon losses of certain household furnishings, clothing, an automobile and an inventory of a fishing equipment business located in Warsaw, Poland, which losses occurred during World War II as a direct consequence of military operations of war.

By a proposed decision dated April 20, 1966, claimant Irene Sadowska Sullivan was granted an award in the amount of \$8,556.00 for the loss of the subject property. Inasmuch as no objections were filed to the award, the decision was entered as the Commission's Final Decision on May 19, 1966. The award was subsequently certified to the Secretary of Treasury for payment out of the War Claims Fund and the award was paid in the full amount.

In December 1966, Mrs. Sullivan communicated with the Commission for advice regarding procedures applicable to reopening claims for further consideration for property not previously claimed. She was advised that Commission regulations provided for the reopening of claims for further consideration based upon additional losses. This could be accomplished by filing a petition and appropriate evidence establishing ownership, loss or destruction, and the value of such property.

A petition to reopen was subsequently filed with the Commission on March 3, 1967 seeking additional compensation for the damage or destruction of a tenement house in Warsaw which had been purchased by claimant's late father. The only evidence submitted with the petition was an affidavit executed by two persons then residing in Poland. After an examination of the affidavit, it was found not to have been of sufficient probative value to warrant the granting of compensation under the statute. Mrs. Sullivan was advised by letter dated May 15, 1967 that her petition to reopen had been denied for the foregoing reason.

The war claims program under title II of the War Claims Act of 1948, as amended, was completed on May 17, 1967, and the Commission's jurisdiction with respect to such claims terminated on that date. In regard to such date, section 211 of the statute reads as follows:

"The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than 4 years following the enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title."

Legislation granting appropriations for the program was enacted on May 17, 1963. Accordingly, the Commission was required to complete all of its determinations on these claims within a 4-year period from that date.

Subsequent to May 17, 1967, the completion date, Mrs. Sullivan submitted a certificate from official sources in Warsaw which established ownership in the tenement house which was the subject of the petition to reopen her claim. This certificate, however, was not received by the Commission until May 22, 1967, which was, of course, subsequent to the date upon which the statutory authority for the determination of these claims terminated. In case this evidence had been received prior to the completion date, undoubtedly the evidence would have been considered for the purpose of reopening Mrs. Sullivan's claim and possibly granting her an additional amount for the loss or damage to the building.

When certain limitations are fixed for the filing of claims or evidence or the performance of any act, there are inevitably cases in which acts either are not, or cannot, be performed within the time limits prescribed. As an example, under the program administered by the Commission pursuant to the Polish Claims Agreement of 1960 which provided for a settlement of claims arising out of the nationalization or other taking of American-owned property by the Government of Poland, approximately 3,000 claims were denied wholly or in part for failure of claimants to meet the burden of proof in support of such claim prior to the termination of the program on March 31, 1966. In many cases the claimants had as long as 5 years to obtain and submit evidence but were unable to do so prior to the completion of the program.

These denials were subject of public testimony before the Committee on Foreign Relations in connection with the consideration of legislation in the 89th Congress to extend the Polish Claims Program for the reason that additional time was required by certain claimants to acquire evidence from the Polish authorities.

Because of the extensive property damage in Poland during World War II, the obliteration of 60 percent of the land records and the removal of many former residents from given areas, the Commission was advised that it was impossible for Polish authorities to furnish some of the evidence or information sought by the claimants. The legislation was not enacted and the claims which had been denied for insufficient evidence remained closed.

Upon completion of the war damage claims program under title II of the War Claims Act of 1948, 7,039 awards had been approved out of a total of 22,605 claims filed. It is estimated that between 3,000 and 4,000 of these war damage claims were denied in whole or in part because of claimant's failure to furnish evidence in support of their claims prior to the completion of the program on May 17, 1967, including the claim filed by Mrs. Sullivan.

In these claims as well as claims under other programs, the Commission has not been in a position to change its decisions and take favorable action upon receipt of evidence despite the fact that such evidence may have been submitted only a few days after the completion of these programs.

Upon completion of the war damage claims program under title II of the War Claims Act, the Commission had certified awards in the aggregate amount of \$340.4 million to the Secretary of the Treasury for payment out of the War Claims Fund which consists of the net proceeds of enemy property vested in the United States under the Trading With the Enemy Act. Only \$223.7 million, however, was deposited into the Fund for the payment of the approved awards. Awards based on certain maritime losses and losses by small business concerns were paid in full in accordance with the priority payment procedures as prescribed under the act as well as those awards approved in an amount of \$10,000 or less. All awards approved in excess of \$10,000 were paid to the extent of \$10,000 plus a prorated payment of 61.3 percent of the balance in excess of \$10,000, in accordance with these payment procedures. Consequently, the payment of these awards has presently exhausted the money in the War Claims Fund. It is anticipated, however, that additional money may be made available for transfer into the War Claims Fund possibly within the near future.

The bill proposes to pay any award due Mrs. Sullivan out of unappropriated money in the Treasury. Accordingly, it would not affect future payments out of the War Claims Fund.

The Commission is of the opinion that if S. 1785 is enacted, it would be discriminatory to the other claimants who were unable to document their claims prior to the completion date of the program. Moreover, there does not appear to be any special extenuating circumstances for singling out Irene Sadowska Sullivan for special relief or that she is more deserving than others to receive such relief. In the absence of such circumstances and because the Commission is of the opinion that the use of unappropriated funds in the Treasury for the payment of war damage claims would establish a highly undesirable precedent for other unsatisfied claimants under other similar claims programs, it is opposed to the enactment of S. 1785.

Advice has been received from the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

LEONARD V. B. SUTTON,
Chairman.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., October 21, 1969.

HON. JAMES O. EASTLAND,
Chairman, Judiciary Committee,
U.S. Senate, Washington, D.C.

DEAR JIM: Relative to private bill S. 1785, which I have introduced for myself and Senator Fannin, I would like to respond to the report filed by the Foreign Claims Settlement Commission by letter of September 22. I strongly disagree with the opinion of the Commission relative to the merits of the case and I concur with the Commission relative to the proper source of funds for payment under the bill.

On April 10, I presented a detailed brief to the committee, including an extensive appendix of documentary proof. The brief establishes that on March 3, 1967, Mrs. Irene Sullivan submitted a formal petition, by registered letter, to the Commission to reopen her claim before the Commission so as to include an award for the destruction of a building in Warsaw which had been owned by her late father. (See exhibit 3A.)

Mrs. Sullivan enclosed with her petition an affidavit made by Mr. and Mrs. Konopka of Warsaw, who had been the family attorneys for approximately 25 years. Their affidavit was sworn to before the U.S. Vice Consul at Warsaw and set forth a specific description of the property, including its address, its ownership, its value, the cause of its destruction, and the page number of the official land mortgage book in which the property was recorded. (See exhibit 3B.)

The brief further establishes that these same two persons had furnished an affidavit which had been accepted by the Commission as proof of Mrs. Sullivan's original claim. Thus, the Commission had already determined that these individuals are competent, reliable witnesses. (See exhibit 1.)

In contrast to the actual facts of the case, the Commission has reported that "The only evidence submitted with the petition was an affidavit executed by two persons then residing in Poland." This bare statement is misleading because it completely conceals the facts that these are the same two persons on whom the Commission had once before relied in granting the original award to Mrs. Sullivan. Also, the Commission's report fails to disclose that the affidavit gave a full, detailed description of the property, including a citation of the page number on which the property was listed in the official land records of the city of Warsaw.

It is my belief that in these circumstances, the evidence supplied by Mr. and Mrs. Konopka should have constituted sufficient probative value to support an award to Mrs. Sullivan. At the very least, I believe it then became mandatory for the Commission, should it have had any doubts as to the fact, to inquire whether Mrs. Sullivan possessed any additional evidence.

On April 7, 1967, the Commission did respond to Mrs. Sullivan's petition by asking her to complete and return an affidavit of inheritance. The Commission did not use this occasion to ask for any other supporting evidence of any kind. (See exhibit 4.)

Mrs. Sullivan returned the completed affidavit on April 12, 1967, by registered letter No. 3063, and attached to the affidavit a request that the Commission advise her if any further information or documents would be required. The Commission never did acknowledge her inquiry.

The Commission has failed to inform the committee that Mrs. Sullivan was asked to complete an affidavit of inheritance or that she sought to be advised if any further evidence would be required. To me, these are significant facts because they prove, first, that the Commission never requested any additional evidence other than the affidavit of inheritance and second, that the Commission had been put on notice by Mrs. Sullivan that she stood ready to give any further verification that might be needed.

The equities in Mrs. Sullivan's case are further buttressed by the fact that at the first occasion when she was informed of the need for new evidence, she sent it almost immediately.

The first time the Commission informed Mrs. Sullivan that her petition did not warrant a new award was on May 15, 1967, 2 days before its authority to consider war claims expired. On May 22, 1967, exactly 1 week later, Mrs. Sullivan furnished new evidence in the form of an official certificate of the Governmental Notary Bureau in Warsaw attesting to the ownership of the property, the destruction thereof as a result of military operations during World War II, and its value. The document verified each fact sworn to by Mr. and Mrs. Konopke, even down to the same page number in the mortgage record books as cited by them. (See exhibits 5, 6A, and 6B.)

Consequently, the facts demonstrate that had the Commission given Mrs. Sullivan an opportunity to know of and respond to its questions she could have furnished the appropriate evidence promptly.

Finally, there is no question but that the claim as verified by Mrs. Sullivan was sufficient to justify an award. In reply to my letter of inquiry dated February 19, Mr. Leonard v. B. Sutton, Chairman of the FCSC, says at page 2:

"Your inquiry of February 19, 1967, poses two questions. First, if the submission by Mrs. Sullivan had been timely, would she have presented the type of claim for which an award would have been made under Public Law 87-846. The answer to this question is in the affirmative."

In summary, I must disagree strongly with the opinion given by the Commission that "there does not appear to be any special extenuating circumstances for singling out Irene Sadowska Sullivan for special relief or that she is more deserving than others to receive such relief."

By the very admission of the Chairman of the Commission, Mrs. Sullivan's claim stated grounds "for which an award would have been made . . ." had the Commission deemed it timely. Certainly this unusual statement alone distinguishes the case from all others and establishes equity in her behalf.

If Mrs. Sullivan's original claim was accepted on the basis of evidence given by the family attorneys, why was evidence from the same people not accepted in the case of her amended claim?

If the Commission had any doubts at all relative to the truth of her claim, why did it not respond to her offer of April 12, 1967, to supply any further information that was necessary?

The fact that they failed to give Mrs. Sullivan any opportunity to meet their reservations about her claim, in the face of her specific request to be allowed to do just that, creates a strong equity in her behalf. This is particularly so in view of her proven ability to supply additional evidence quite promptly.

Thus, several features of the case distinguish it from other instances in which persons failed to submit timely evidence to the Commission. How many other cases exist in which an award "would have been made . . ."? How many other cases are there where the pending claim was supported by detailed evidence offered by the same witnesses whose statement had previously served as the basis for the making of an award? How many other claimants had formally requested an opportunity to provide additional evidence if this would be required? How many other cases are there in which the claimant did in fact transmit to the Commission additional convincing evidence within less than 1 week from the time the Commission's authority expired?

Obviously, there are no other such cases. For the Commission to assert that the enactment of a private bill in the case will open the door to the passage of 3 or 4,000 other such bills is ridiculous. The special circumstances of the case are highly unlikely to be present in any other situation, and I am confident that the bill would not create a precedent for other claimants.

Turning to the second comment presented by the Commission, I wish to state my agreement with the position of the Commission that it is unwise to use unappropriated funds in the Treasury for the payment of war damage claims. In order to correct this aspect of the bill, I suggest that the Committee accept an amendment to the bill as follows:

On page 2, lines 15 and 16, strike out "out of any money in the Treasury not otherwise appropriated," and substitute "out of any money now or hereafter deposited in the War Claims Fund."

On the basis of these reasons, I respectfully ask that the Committee approve the bill with an amendment.

With warmest personal regards,

BARRY GOLDWATER.

U.S. SENATE,
COMMITTEE ON AERONAUTICAL AND SPACE SCIENCES,
Washington, D.C., April 16, 1969.

HON. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee, U.S. Senate,
Washington, D.C.

DEAR JIM: In connection with the private bill, S. 1785, which I introduced on April 14, for the relief of Irene Sadowska Sullivan, I would like to submit for your consideration the following statement of facts which I believe will justify the granting of relief in her case.

I.

1. On April 20, 1966, the Foreign Claims Settlement Commission of the United States made an award to Mrs. Sullivan of \$8,556 for

the loss of certain personal property owned by her in Warsaw, Poland, that had been destroyed as a result of military operations during World War II. The Commission made its findings based upon the affidavits of Mr. and Mrs. Zdzislaw Konopka, the family solicitor, and an itemization by a third individual. (See proposed decision of April 20, 1966, labeled exhibit 1.)

2. By letter of November 28, 1966, Mrs. Sullivan communicated with the Commission to request information on how to reopen her claim so as to include additional property losses based upon the destruction of certain property in Warsaw which was formerly owned by her father, a United States citizen. The Commission acknowledged her letter on November 30, 1966, and advised her that her claim could be reopened by petition to include different losses. (See answer by FCSC dated November 30, 1966, labeled exhibit 2.)

3. On March 3, 1967, Mrs. Sullivan submitted a request, by registered letter, to the Commission to reopen her claim to include additional property in Warsaw. She enclosed with her letter an affidavit made by Mr. and Mrs. Konopka of Warsaw, the same two persons whose former affidavit had been accepted by the Commission as proof of Mrs. Sullivan's original claim. Their new affidavit was sworn to before the United States Vice Consul at Warsaw and presented a specific description of the property, its ownership, its value, and the cause of its destruction. (See letter by Mrs. Sullivan, dated March 3, 1967, labeled exhibit 3A; and see affidavit by Mr. and Mrs. Konopka, dated February 21, 1967, labeled exhibit 3B.)

4. On April 7, 1967, the Commission responded to Mrs. Sullivan's request and asked her to complete and return an affidavit of inheritance. No other supporting evidence was requested. She complied with this requirement. (See letter by the Commission, dated April 7, 1967, labeled exhibit 4.)

5. On May 15, 1967, 2 days before the Commission's authority to consider war claims expired, it sent to Mrs. Sullivan its findings that her petition did not warrant the reopening of her claim. The Commission stated that the joint affidavit of the Konopkas was not of sufficient probative value and that there was no proof of her father's naturalization. (See letter by Commission, dated May 15, 1967, labeled exhibit 5.)

6. Immediately upon receipt of the Commission's letter, Mrs. Sullivan submitted new evidence to verify her claim in the form of an official certificate by the Governmental Notary Bureau in Warsaw, dated February 21, 1967. The description of the property, its value, and its ownership was certified to in this document in exact conformity to the description previously given to the Commission by Mr. and Mrs. Konopka. (See registered letter of Mrs. Sullivan, dated May 22, 1967, labeled exhibit 6A; and see translation of official certificate, dated February 21, 1967, labeled exhibit 6B.)

7. Finally, in July 1967 Mrs. Sullivan submitted to the Commission a statement from the U.S. Immigration and Naturalization Service proving that her father had been naturalized as a U.S. citizen on November 16, 1925. (See letter by INS, dated July 7, 1967, labeled exhibit 7.)

II.

The evidence in this case conclusively shows that the facts submitted to the Commission by Mrs. Sullivan in her letter of March 3, 1967, were accurate and would have presented the type of claim for which an award would have been made under the war claims program. The facts are also clear that she submitted her claim at a time when the Commission still had authority to consider such claims.

For some reason, the Commission did not accept her documentation as having sufficient probative value, even though her claim included a sworn affidavit by the family attorney and his wife, Mr. and Mrs. Konopka, whose first affidavit had been accepted by the Commission as appropriate to establish the facts supporting her original claim.

On its face, their affidavit, which referred to the official mortgage book, should have constituted sufficient value to create a reasonable belief that the facts stated therein were true. At the least, the affidavit should have served as sufficient ground for the Commission to learn from Mrs. Sullivan if she had any additional evidence available concerning the property.

But the first notice which the Commission gave to Mrs. Sullivan that there was any doubt about her claim was in its letter of May 15, 1967, 2 days before its authority over such claims expired. The record proves that Mrs. Sullivan could have, and did, respond promptly with appropriate evidence as soon as she knew that there was a need for additional confirmation.

As to the question raised by the Commission concerning the citizenship of her father, it is a fact that this element of her claim could have been confirmed almost immediately by the simple procedure of sending an inquiry by cable or letter to the U.S. Embassy at Warsaw, where her father had been registered as a U.S. citizen. Again, Mrs. Sullivan was able to furnish proof on her own once the question was raised.

III.

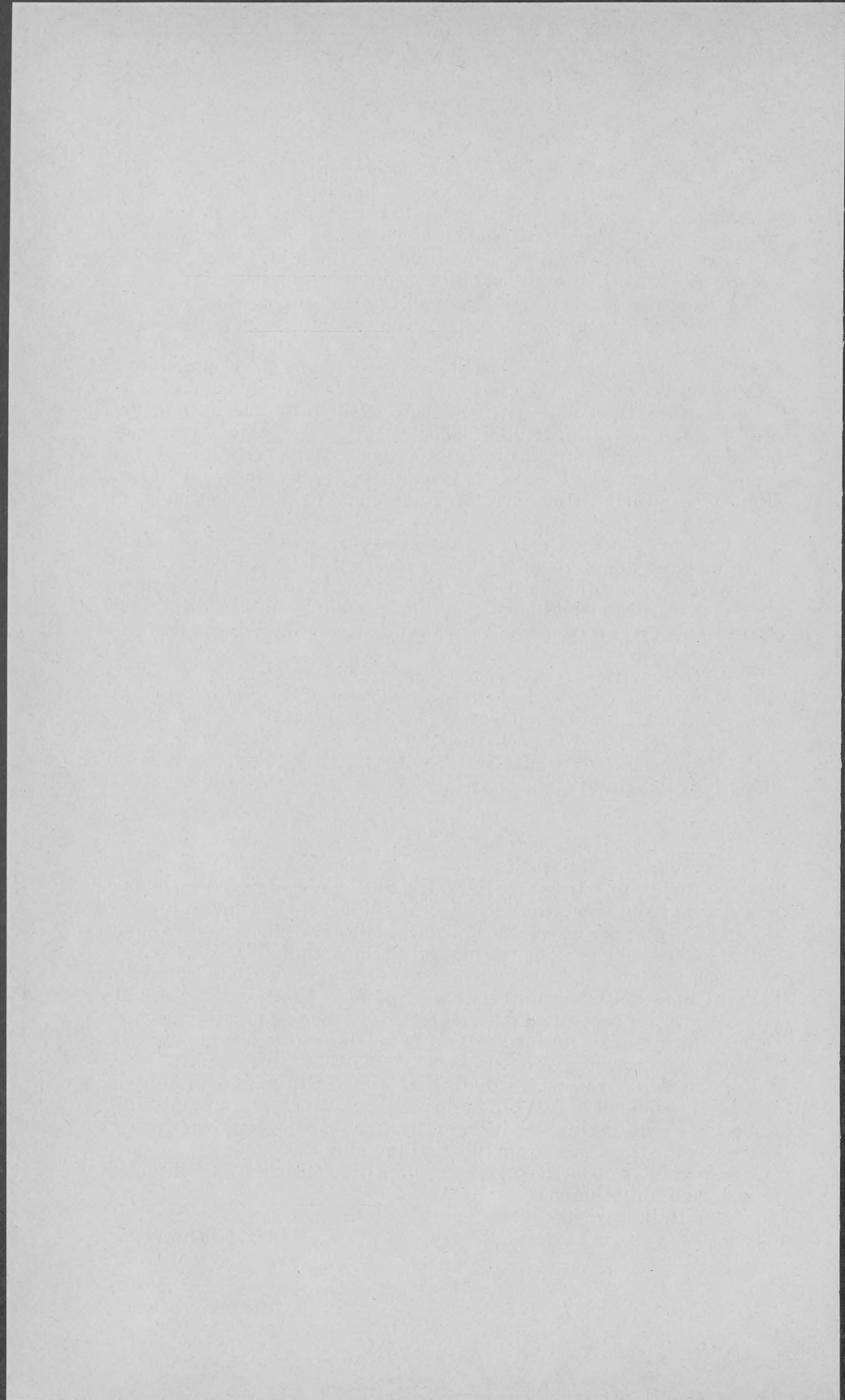
In summary, I believe the record in this case establishes definite equities for the granting of relief. Mrs. Sullivan's presentation of facts was honest; she submitted a claim of the type for which an award would be made; her claim was documented by the same reputable individuals whose evidence had previously been accepted by the Commission; she was not provided with any indication that the Commission had any questions about her statement of facts, nor was she given any opportunity to meet the questions raised by the Commission, prior to the expiration of its authority; and her claim was pending before the Commission in an active status on the date its authority ended.

For the above reasons, I submit that Mrs. Sullivan is equitably due the relief provided in this bill and that there are unique circumstances in her case that distinguish it from the other cases where persons were barred by the time limit from submitting their claims.

I respectfully request that the committee approve this bill and do report favorably thereon.

With best wishes,

BARRY GOLDWATER.



APPENDIX

EXHIBIT 1

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

(Claim No. W-997—Decision No. W-12423)

In the matter of the claim of IRENE SADOWSKA SULLIVAN under Title II of the War Claims Act of 1948, as amended by Public Law 87-846

PROPOSED DECISION

This claim, for \$9,053, under section 202(a), Title II, of the War Claims Act of 1948, as amended, is based upon loss as a result of military operations of war, during World War II, of certain personalty in Warsaw, Poland. Claimant Irene Sadowska Sullivan has been a national of the United States since her birth in the United States on April 9, 1916.

Section 202 of the act authorizes the Commission to determine the validity and amount of claims of nationals of the United States for—

(a) loss or destruction of, or physical damage to, property located in * * * Poland * * * which loss, destruction, or physical damage occurred during the period beginning September 1, 1939, and ending May 8, 1945 * * * *Provided further*, That such loss, destruction or damage must have occurred, as a direct consequence of (1) military operations of war or (2) special measures directed against property in such countries or territories during the respective periods specified, because of the enemy or alleged enemy character of the owner, which property was owned, directly or indirectly by a national of the United States at the time of such loss, damage or destruction * * *." (76 Stat. 1107 (1962); 50 U.S.C. App. 2017a (1964).)

The Commission finds, on the basis of the record herein, which includes affidavits by two disinterested witnesses and an itemization under oath by a third disinterested individual, that claimant was the owner of certain personal property consisting of household furnishings, the inventory of a fishing equipment business, clothing, and an automobile in Warsaw, Poland; and that it was lost or destroyed during World War II as a result of military operations of war. The Commission further finds, on the basis of the entire record, that the amount of claimant's losses was \$8,556.60; and concludes that she is entitled to an award in that amount.

The Commission has decided that an award under title II of the act shall not be increased by interest (See the *Claim of Bruno Adamski*,

Claim No. W-1184, 20 FCSC Semiann. Rep. 37 (Jan.-June 1964).) Accordingly, no interest will be allowed in this claim.

AWARD

An award is hereby made to Irene Sadowska Sullivan in the principal amount of Eight Thousand Five Hundred Fifty-Six Dollars and Sixty Cents (\$8,556.60).

Dated at Washington, D.C., and entered as the Proposed Decision of the Commission, April 20, 1966.

EDWARD D. RE,
Chairman.

THEODORE JAFFE,
Commissioner.

LAVERN R. DILWEG,
Commissioner.

Notice.—Pursuant to the Regulations of the Commission, if no objections are filed within 20 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. § 580.7 (Supp. 1965).)

FOREIGN CLAIMS SETTLEMENT COMMISSION

OF THE UNITED STATES,

Washington, D.C., November 30, 1966.

MRS. IRENE SULLIVAN,
Phoenix, Ariz.

DEAR MRS. SULLIVAN: This will acknowledge the receipt of your letter dated November 28, 1966, concerning the loss of certain property in Warsaw which was formerly owned by your father.

Please be advised that the Commission was authorized under title I of the International Claims Settlement Act of 1949, as amended, and the Polish Claims Agreement of July 16, 1960, to determine certain claims of nationals of the United States against the Government of Poland for the nationalization or other taking of their property. However, March 31, 1962, was the published deadline for filing claims under the agreement and this claims program was completed on March 31, 1966. Accordingly, the Commission may not now accept new claims.

The Commission is also authorized under Public Law 87-846, approved October 22, 1962 (title II of the War Claims Act of 1948, as amended), to determine certain claims of nationals of the United States for loss, damage, or destruction of real property and tangible personal property located in certain specified areas of Europe and the Pacific, as a result of military operations or special measures directed against such property because of the enemy or alleged enemy character of the owner. However, the time limit for filing claims under this statute expired on January 15, 1965.

The records of the Commission indicate that one Irene Sullivan has filed a claim under Public Law 87-846 for loss of property in Warsaw, Poland. It cannot be ascertained from the information in your letter whether you are the person who filed that claim.

If you are, and the property about which you now write is separate and distinct from that already claimed, you may petition the Commission for permission to reopen the claim to include additional property losses. Such a petition would necessarily have to be accompanied by appropriate evidence to establish ownership of the property, the damage or destruction thereof as a result of military operations during World War II and its value.

On the other hand, if you do not presently have a claim on file with the Commission which was filed on or before January 15, 1965, any claim filed at this late date would be denied as untimely.

Very truly yours,

ANDREW T. MCGUIRE,
General Counsel.

EXHIBIT 3.A.

IRENE SADOWSKA SULLIVAN.
Scottsdale, Ariz., March 3, 1967.

Re claim W. 7, Irene Sadowska Sullivan.

Attn. Andrew T. McGuire, General Counsel.

FOREIGN CLAIMS SETTLEMENT COMMISSION,
Washington, D.C.

DEAR SIR: In reference to your letter of November 30th, 1966 addressed to the above, I wish to request that the Commission re-open my above numbered claim.

At long last after much effort, I am now in possession of Documentary proof to substantiate an additional claim being made by me.

As this property was purchased in 1931, when the zloty was valued further action by your office.

As this property was purchased in 1931, when the zloty was valued at approximately \$4.00, I was wondering if this would have any bearing on the settlement. Also the fact that the purchase was made with American Currency.

In the event of any further information being required by you, kindly notify me, at your earliest convenience.

Thanking you in anticipation of a favourable reply from you.

Yours very truly,

IRENE SADOWSKA SULLIVAN.

Encl. Official Documentary Extract from Warsaw Archives.

EXHIBIT 3.B.

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

Report of loss of property in Poland by Nationals of the United States due to Nationalisation or other taking.

A. Name and address of applicant

1. Irene Sadowska-Sullivan

2. Address: 8532 E. Rovey Ave., Scottsdale, Arizona, U.S.

B. Date and place of birth: April 9-1916, Detroit, Mich. U.S. Details of property:

IMMOVABLE PROPERTY

1. Konopka Zdzislaw, solicitor, address ul, Glogera 3-2 Warsaw-Poland

2. Konopka Halina, address, ul. Glogera 3-2, Warsaw-Poland hereby verify the following:

Wladyslaw Rutkowski date and place of birth June 21-1887, Turczyn-Poland, lived in the United States of America from 1910. After twenty years he came to Poland in 1930 as a National of the United States and on January 3rd, 1931 he bought a tenement house in Warsaw, ul. Towarowa 56, number of the mortgage 5502, for the sum of zloty 172000 according to the mortgage book.

This house has been completely destroyed by military operations of the German Army during the last war in 1944.

Wladyslaw Rutkowski died in Szczecin, Poland on January 17th, 1948, and a claim for compensation has been put by his daughter: Irene Sullivan, National of USA, date and place of birth: April 9, 1916, Detroit, Mich., U.S.A., her present address: 8532 E Rovey Ave., Scottsdale, Arizona U.S.A.

People's Republic of Poland, City of Warsaw, Embassy of the United States of America

Subscribed and sworn to before me this 21st day of February 1967 at Warsaw.

Verified by U.S. records from Embassy files.

BARCLAY WARD,
Vice Consul of the United States of America.

EXHIBIT 4

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES,
Washington, D.C., April 7, 1967.

Re Claim No. W-997; Decision No. W-12423.

MRS. IRENE SULLIVAN,
Scottsdale, Ariz.

DEAR MRS. SULLIVAN: Reference is made to the above-captioned claim.

You are requested to complete the enclosed affidavits of inheritance, have them notarized and returned by return mail.

Very truly yours,

WALTER E. MONAGAN, JR.,
Attorney-in-Charge, General War Claims Division.

Enclosures.

EXHIBIT 5

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES,
Washington, D.C., May 15, 1967.

Re Claim No. W-997; Decision No. W-12423.

MRS. IRENE SADOWSKA SULLIVAN,
Scottsdale, Ariz.

DEAR MRS. SULLIVAN: Reference is made to the above-referenced claim and the petition to reopen submitted thereon.

The regulations of the Commission provide claimants with an opportunity to petition to reopen a claim even after a final decision has been rendered. The petition to reopen must, however, be accompanied by evidence that would warrant a change in the results of the prior decision of the Commission.

You may be advised that the joint affidavit of Konopka Zdzislaw and Konopka Halina submitted by you is not of sufficient probative value to support an award. Moreover, there is no proof of your late father's naturalization. Accordingly, since a change in the final decision of the Commission is not warranted on the basis of the present record, the final decision of the Commission will remain as issued.

Very truly yours,

WALTER E. MONAGAN, Jr.,
Attorney-in-Charge, General War Claims Division.

EXHIBIT 6.A.

MAY 22, 1967.

Re Claim No. W-997 Decision No. W-12423, Irene Sadowska Sullivan.

MR. EDWARD D. RE,
Chairman, Foreign Claims Settlement Commission of the United States, Washington, D.C.

DEAR MR. RE: I am enclosing herewith self-explanatory documentary proof attesting to my father's ownership of the real estate on which the apartment buildings were erected.

You will realize that my claim is for the buildings which were situated on this parcel of land. And, no doubt these documents will substantiate the claim and thereby alleviate any question of doubt by yourself or your Commission. You will note that this document is dated February 21, 1967, and his land is being held in trust by the Peoples Polish Republic, under my name.

Respectfully yours,

IRENE SADOWSKA SULLIVAN.

P.S. These documents were received since mailing my previous letters of this date.

EXHIBIT 6.B.

GOVERNMENTAL NOTARY OFFICE IN WARSAW

CERTIFICATE

The Governmental Notary Bureau in Warsaw, District IX, hereby certifies that, according to records I, II, III and IV of the mortgaged real estate roll, on February 16, 1967 title to "Real Estate No. 5502 in m.st. Warsaw", situated on Towarowej Street, Warsaw, was registered in the names of the spouses Rutkowski, Wladyslawa and Feliks of Debowski by virtue of entry No. 6 vol. II of that register under date of January 3, 1931; at present the title of ownership of the above described property is held "in favor" (control?) of the Treasury, under proposal of February 3, 1962 No. 536/62, and statement (resolution?) by the Presidium of People's Council in Warsaw, dated December 19, 1961, No. GT—III—II—6/T/134/61.-----

Section III No-s 1 through 14 deleted

No. 15—fixed to amount under No. 8 of Section IV

No-s. 16 through 20 deleted

No. 21—fixed to amount under No. 15 of Section IV

No. 23 deleted

No. 24—fixed to amount under No. 19 of Section IV

No. 25—fixed to amount under No. 20 of Section IV

Section IV No. 8 shows 3125 rubles security in favor of Franciszek Potomacki, by virtue of motion (proposal) of October 21, 1922, No. 59, which retained priority on the "Bank Gospodarstwa Krajowego"'s mortgage loan that, by owners of said property was contracted to the amount of 8,000 zloty.

No. 9 through 14 deleted

No. 15—Amount of 4,700 zloty and 470 zloty deposited as security in favor of the Municipality of Warsaw under record No. 65 of August 23, 1927.

No. 16 through 18 deleted

No. 19—shows 2,000 zloty deposited under loan title, together with 1,600 zloty under title of security in favor of Bank Gospodarstwa Krajowego, Head Office, in accordance with record No. 928 of 12-11-36.

No. 20—13,000 zloty under title of security in favor of Komunalna Kasa Oszczedności, Warsaw, under entry No. 35 of December 15, 1942.

No other entries in Sections III and IV.

Service charge of 10 zloty collected on delivery.

_____,
Office Manager.

To supplement the above certificate it is stated that the described real estate was acquired by the spouses Rutkowski for an amount of 172,000 zloty.

Warsaw, February 21, 1967.

_____,
Office Manager.

EXHIBIT 7

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Phoenix, Ariz., July 7, 1967.

IRENE SULLIVAN,
Scottsdale, Ariz.:

In reply to your recent request, to show when and where Wladislaw Rutkowki was naturalized, the following information is furnished from the records of this Service:

Name of subject: Wladislaw Rutkowski.

Age or date and place of birth: February 8, 1893, at Plock, Poland, Russia.

Other (indicate) Wladislaw Rutkowski was naturalized on November 16, 1925 in the Circuit Court of Wayne County, held at Detroit, Mich.

Remarks: Certificate of naturalization (No. 2339974).

The above information was taken from the document indicated below which was recorded on November 16, 1925.

Sincerely yours,

JOHN A. MURPHY,
Acting District Director.

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